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## MEASURE L

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### PROPOSAL TO REQUIRE ADVISORY VOTES ON PROPOSALS TO EXPAND THE TERRITORY OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT

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**Shall the ordinance of the Sacramento Municipal Utility District (SMUD) establishing the conditions under which SMUD shall provide electric service to the Cities of West Sacramento, Davis, and Woodland and portions of Yolo County by annexation be adopted?**

**YES \_\_\_\_\_ NO \_\_\_\_\_**

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#### IMPARTIAL ANALYSIS BY SACRAMENTO COUNTY COUNSEL

(Ordinance Establishing Conditions Under Which SMUD Would Provide Electric Service to and Annexation of the Cities of West Sacramento, Davis and Woodland and Contiguous Unincorporated Portions of Yolo County)

Prepared by Sacramento County Counsel

If approved by voters, Measure L would adopt an ordinance establishing the conditions under which the Sacramento Municipal Utility District (SMUD) would provide electric service to and annexation of the Cities of West Sacramento, Davis and Woodland and contiguous unincorporated portions of Yolo County (Yolo Territory). Measure L would prohibit SMUD from proceeding with the provision of electric service to and annexation of the Yolo Territory unless Measure L is approved by a majority of voters in SMUD's existing service territory voting at the November 7, 2006 election.

Measure L includes provisions directed at holding existing SMUD customers harmless from any adverse financial consequences resulting from the proposed annexation of the Yolo Territory. These provisions would require SMUD customers in the Yolo Territory (Yolo Customers) to pay, through their rates and a surcharge, an amount sufficient to recover specified costs of annexation and electric service to Yolo Customers. These rates and charges would be in the form of a base charge to recover the first \$90 million of the acquisition costs of PG&E's facilities and then a surcharge to recover specified energy costs in excess of a prescribed amount and those acquisition costs in excess of the first \$90 million (Surcharge Amount). This surcharge would be in place until specified acquisition and energy costs are fully paid by the Yolo Customers (Surcharge Period).

Measure L requires the SMUD Board of Directors to establish rates and charges for electric service in the Yolo Territory prior to commencing such electric service and in a manner consistent with Public Utilities Code Sections 14401-14403.5 and SMUD Ordinance 91-1. While Measure L requires the initial tariff rates for the Yolo Customers to be 2 percent or more below the then effective PG&E tariff rates, it also requires the tariff rates charged to Yolo Customers to be sufficient to recover specified costs of providing electric service to the Yolo Customers, the Surcharge Amount, non-bypassable charges (to the extent collected by SMUD), and any other charges required to be collected by the State of California. Upon the end of the Surcharge Period, Yolo Customers would be placed on the then applicable SMUD tariff rates for similarly situated customers. To the extent that SMUD derives any net income from the Yolo Territory, Measure L requires SMUD to use any such net income for the following purposes: (i) to reduce existing debt or to reduce net debt required to fund capital improvement projects; or (ii) to invest in energy efficiency and clean energy resources in the Sacramento region.

Measure L requires approval by a majority vote of the qualified voters voting in the election on the issue.

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## ARGUMENT IN FAVOR OF MEASURE L

Dear Placer Neighbors,

Over the last 60 years, the people of Sacramento and Placer Counties have turned SMUD into the finest not-for-profit public utility in America. SMUD's electric rates are among the lowest in California -- 30% lower than PG&E's which are among the highest. J.D. Power rates SMUD #1 in both residential and commercial service. PG&E ranks second-to-last.

After the 2001 energy crisis, we had to bail PG&E out of bankruptcy by paying higher rates while PG&E executives paid themselves \$83 million in bonuses. PG&E's top executive comes from Enron. They spend our money on corporate salaries, perks, and profits.

Not-for-profit SMUD returns value to customers with lower rates, cleaner air and better service. These facts led to our unanimous decision: The City Councils of West Sacramento, Davis and Woodland joined with the Yolo County Board of Supervisors to ask you to bring SMUD service to our communities.

We will pay the costs. You will not. And we'll all save money. When Folsom residents asked SMUD to serve their community, you did. Folsom residents saved \$238

million on their electric bills and SMUD's customers earned \$125 million... money PG&E would have added to their profits. SMUD used it to keep rates low.

We hope you will consider our request when you vote on Measure L. "L" means Lower Rates for everyone. By adding our 77,000 homes SMUD will have more customers sharing in the development of solar, wind, and renewable power bringing cleaner air to the Sacramento Valley.

PG&E is spending millions (of our money) to mislead you and force us to keep their service and pay their higher rates. We are asking you to let us bring SMUD service into our homes, farms, and businesses. SMUD YES!

Sincerely,

David M. Flory, Mayor, City of Woodland  
Christopher Cabaldon, Mayor, City of West Sacramento  
Sue Greenwald, Mayor, City of Davis  
Mariko Yamada, Supervisor, Yolo County Board of Supervisors  
Mike McGowan, Supervisor, Yolo County Board of Supervisors

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## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE L

Five Yolo County politicians signed the ballot argument in favor of Measure L. Nobody from Sacramento. No SMUD ratepayer. Nobody from the community.

That's because current SMUD customers face the greatest risk from SMUD's reckless expansion into Yolo County. Those Yolo politicians won't bear the burden of SMUD's mistake. You will.

As Sacramento County Supervisor Susan Peters said of her vote against SMUD's expansion: "If there's a big surprise, Sacramento County ratepayers will pay for it in some way."

SMUD's lawyers conceded they won't know what the final cost will be until after an eminent domain condemnation lawsuit -- long after this election. Legal experts say the cost of taking PG&E's electrical system and customers could be more than \$390 million -- more than four times SMUD's estimate. SMUD should put their Yolo expansion plans on hold until they know the total costs to customers.

Vote No on Measure L. Current ratepayers get nothing in return for this risk.

Your rates won't be lower, and could rise.

Your service won't be better, it could worsen.

Your electric reliability won't improve, supplies will be stretched.

SMUD will never be the same if Measure L passes, because 70,000 new customers and 211 square miles of new territory will strain SMUD's resources and cheap power. In the next energy crisis, current SMUD customers could see their rates rise.

Those Yolo politicians want to change SMUD forever. If you like SMUD the way it is, you should Vote No on Yolo expansion, No on Measure L.

Paul W. Carr, Former Member of SMUD Board of Directors  
Grant S. Green, Immediate Past President, Lake Natoma Heights Homeowners Assn.  
Perry Zimmerman, Former Business Manager of the International Brotherhood of Electrical Workers (IBEW) Local #1245  
Ken Payne, Pres. Sac. Co. Taxpayers' League  
Alice A. Huffman, President, CA - NAACP

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## ARGUMENT AGAINST MEASURE L

Vote No on Measure L. There's no benefit for current customers from SMUD's bizarre plan to expand into Yolo County.

What's in it for you? Does it lower your SMUD rates? No. Does it improve service for SMUD's current customers? No. Does it help conserve resources and improve the environment? No. Does it change the character of SMUD forever? Absolutely.

SMUD doesn't generate enough power to serve existing customers during some peak periods as it is. When SMUD faces storms and power outages affecting 70,000 new customers spread over 211 square miles, they'll be stretched too thin to maintain reliable service.

This takeover will force SMUD to become a large power purchaser, buying much more electricity on the open market or building new power plants.

Vote No on Measure L. The cost of annexation won't be known for years - long after this election - when a court sets the price of PG&E's poles, wires, land and equipment after an eminent domain trial. Yet SMUD wants you to approve the takeover now. Would you buy a house before knowing the final price?

SMUD must pay fair market value for PG&E's system. That's the law. PG&E says it's worth about \$520 million. SMUD says it's worth about \$85 million. Legal experts predict the courts will decide SMUD's takeover could cost over \$390 million -- four times more than SMUD's prediction. Are you willing to pay higher rates to cover SMUD's miscalculation?

SMUD, our local utility, wants to change overnight through this takeover. Does that really help you keep low rates and good service? Without knowing the cost, SMUD can't be certain how it will affect you.

If you're happy with SMUD today, ask yourself: if it's not broken, why fix it? Get all the facts at [www.smudrisk.com](http://www.smudrisk.com), then Vote No on Measure L.

Paul W. Carr, Former Member of SMUD Board of Directors

Grant S. Green, Immediate Past President, Lake Natoma Heights Homeowners Assn.

Perry Zimmerman, Former Business Manager of IBEW Local #1245

Ken Payne, President, Sac. Co. Taxpayers' League

Betty Dean Elston, Coalition for Reliable and Affordable Electricity

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## REBUTTAL TO ARGUMENT AGAINST MEASURE L

J.D. Power rates SMUD #1 in both residential and commercial service. PG&E ranks second-to-last. PG&E's argument that SMUD won't be able to service Yolo County reliably is false.

In fact, PG&E's service is unreliable. "Outages identify PG&E's limits - 1.2 million customers lose power, experts assess utility's vulnerabilities" – Contra Costa Times, July 30, 2006.

And this occurs despite the 30% higher rates that PG&E charges. Why? PG&E has a long history of using ratepayer money for the wrong things: \$83 million in executive bonuses after the company filed bankruptcy, a 2006 rate increase request to the Public Utilities Commission to pay for an \$18 million corporate jet, and \$3 million in salary & stock options to a former Enron executive now running the PG&E Company.

And now PG&E is spending millions on a false campaign attacking SMUD. They paid \$200,000 to Stan

Atkinson to appear in television ads saying it cost SMUD \$16 million to bring service in Folsom. What PG&E didn't tell Stan was that Folsom's ratepayers saved \$238 million and SMUD ratepayers have earned an additional \$125 million from service in Folsom.

As leaders of Folsom we thank you for bringing SMUD to our community. We support the request from West Sacramento, Davis and Woodland for SMUD service. It's good for our neighbors in Yolo County, good for Sacramento and Placer Counties and good for the Valley's air quality.

Andy Morin, Mayor, City of Folsom

Kerri Howell, Vice Mayor, City of Folsom

Steve Miklos, Councilman and Former Mayor, City of Folsom

Jeff Starsky, Councilman and Former Mayor, City of Folsom

Bob Holderness, Former Mayor, City of Folsom

**RESOLUTION NO. 06-06-06**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY  
DISTRICT CALLING AN ELECTION WITHIN THE  
BOUNDARIES OF THE DISTRICT, ESTABLISHING  
SPECIFICATIONS OF THE ELECTION ORDER,  
AND REQUESTING CONSOLIDATION WITH  
OTHER ELECTIONS**

**WHEREAS**, pursuant to Public Utilities Code section 11950, the initiative and referendum provisions of Chapter 4 (commencing with section 9300) of Division 9 of the Elections Code apply to the Sacramento Municipal Utility District (SMUD); and

**WHEREAS**, pursuant to Elections Code section 9342, the SMUD Board of Directors may refer legislative questions to the voters of the District; and

**WHEREAS**, the SMUD Board of Directors has adopted Resolution No. 06-01-08, which commits to call an election in Sacramento County and portions of Placer County requesting affirmation of the proposal to provide electric service to and annexation of the Cities of West Sacramento, Davis and Woodland and contiguous unincorporated portions of the County of Yolo (Yolo Territory) and agreeing that SMUD will not provide electric service to the Yolo Territory unless approved by a majority of the voters in SMUD's service area in Sacramento and Placer Counties; and

**WHEREAS**, the SMUD Board of Directors desires to submit to the voters of the District a proposed ordinance setting forth the conditions under which SMUD shall provide electric service to and annexation of the Cities of West Sacramento, Davis and Woodland and contiguous unincorporated portions of the County of Yolo; and

**WHEREAS**, pursuant to Elections Code section 1405, it is appropriate for the SMUD Board of Directors to request consolidation of the election with the statewide primary election and any and all other elections to be held on June 6, 2006, and to request each of the Sacramento County Registrar of Voters and the Placer County Registrar of Voters to perform certain election services for the District; and

**WHEREAS**, it is desirable that the election on the proposed ordinance be consolidated with such other election or elections as may be held on the same day in the same territory or in territory that is in part the same; and

**WHEREAS**, on April 20, 2006, the Sacramento Local Agency Formation Commission (LAFCo) determined that SMUD will be the most efficient electric service provider to the Yolo Territory and has the ability

to provide the Yolo Territory with at least the same level of service and potentially more reliable service at a predicted lower rate, and adopted Resolution No. LAFCo 1313 approving SMUD's proposal to annex and provide electric service to the Yolo territory subject to certain conditions; and

**WHEREAS**, by Resolution No. 06-05-09, adopted May 18, 2006, this Board called an election on November 7, 2006, submitting to the voters the question of whether SMUD should provide electric service to the Yolo Territory by annexation subject to specified conditions and proposed an ordinance further defining the conditions; and

**WHEREAS**, the District has not yet filed Resolution No. 06-05-09 with the Registrars of Voters of Sacramento County and Placer County; and

**WHEREAS**, this Board has determined it is prudent to revise the ballot question and proposal ordinance prior to submitting the matter to the Registrars of Voters of Sacramento County and Placer County; and

**WHEREAS**, the proposed revised ordinance is consistent with LAFCo's approval of the SMUD annexation proposal and the conditions imposed thereon, **NOW, THEREFORE:**

**BE IT RESOLVED BY THE BOARD OF  
DIRECTORS OF THE SACRAMENTO  
MUNICIPAL UTILITY DISTRICT:**

1. **Recitals.** The foregoing recitals are true and correct.

2. **Election Order; Ballot Proposition.** Pursuant to Public Utilities Code section 11950 and Elections Code sections 1405 and 9342, an election shall be held within the boundaries of the District on November 7, 2006, submitting to the voters of the District the question of whether SMUD shall provide electric service to the Cities of West Sacramento, Davis and Woodland and portions of Yolo County by annexation; on condition that Yolo customers shall pay the costs of annexation and service and the SMUD Board of Directors shall use any net income from Yolo service to maintain low rates through debt reduction, and invest in energy efficiency and clean energy resources for use in the Sacramento region.

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3. **Abbreviated Statement of the Initiative Measure.** The abbreviated statement of the proposed measure is set forth in the Notice of Election attached hereto as ***Exhibit A*** [please note this ***Exhibit A*** was replaced with the ***Exhibit A*** from Resolution 06-07-03] and incorporated herein by reference. The District hereby requests the Registrar of Voters of the Counties of Sacramento and Placer to designate the measure on the ballot by a letter printed on the left margin of the square containing the abbreviated statement of the measure as provided in Elections Code section 13116. In addition, the District hereby requests the Registrar of Voters of the Counties of Sacramento and Placer to include in the voter information materials a copy of the text of the ordinance, attached hereto as ***Exhibit B*** and incorporated herein by reference.

4. **County Registrar of Voters to Call and Conduct Election.** Pursuant to Elections Code section 10517, the Registrar of Voters of the Counties of Sacramento and Placer are hereby requested to take all steps to prepare for and hold the election within the boundaries of the District in accordance with law and these specifications.

5. **Consolidation with Other Elections.** Pursuant to Elections Code section 1405 and Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, the Counties of Sacramento and Placer are requested to order consolidation of the election with such other election or elections as may be held on the same day in the same territory or in territory that is in part the same.

6. **Canvass of Returns.** The Boards of Supervisors of Sacramento and Placer Counties are authorized to canvass the returns of the election pursuant to Elections Code section 10411.

7. **Services of Registrar of Voters.** Pursuant to Elections Code section 10002, the Boards of Supervisors of Sacramento and Placer Counties are requested to permit the Registrar of Voters of Sacramento and Placer Counties to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the District agrees to reimburse the Counties, such services to include the publication of a Formal Notice of Election (as described herein) and the mailing of the sample ballot.

8. **Formal Notice of Election.** The District's General Counsel is hereby directed to prepare and execute a Formal Notice of Election for delivery to the Registrar of Voters of Sacramento and Placer Counties containing the information specified in substantially the form attached hereto and incorporated herein as ***Exhibit A*** with such changes as may be required by the Office of the Sacramento County

Counsel. The Registrar of Voters of Sacramento and Placer Counties are hereby requested to publish the Formal Notice of Election.

9. **Specifications of the Election Order.** The foregoing specifications of the election order are made pursuant to Elections Code section 10002.

10. **Delivery of Specifications of the Election Order and Notice of Election.** The District's General Counsel is hereby directed to deliver, not later than July 5, 2006, one certified copy of this resolution and order along with the Notice of Election to the Registrars of Voters of Sacramento County and Placer County along with one certified copy of both to the Board of Supervisors of Sacramento and Placer Counties.

11. **General Authorization with Respect to the Election.** The General Manager, General Counsel or their respective designees are hereby authorized and directed, individually and collectively, to do any and all things and to execute, deliver, and perform any and all agreements and documents that they deem necessary or advisable in order to effectuate the purposes of this Resolution. All actions heretofore taken by the officers and agents of the District that are in conformity with the purposes and intent of this Resolution are hereby ratified, confirmed, and approved in all respect.

12. **Prior Resolution Superseded.** Resolution No. 06-05-09, adopted May 18, 2006, is superseded in its entirety.

Adopted: June 15, 2006

|                        |         |    |         |        |
|------------------------|---------|----|---------|--------|
| INTRODUCED BY DIRECTOR | SHIROMA |    |         |        |
| SECONDED BY DIRECTOR   | KEAT    |    |         |        |
| DIRECTOR               | AYE     | NO | ABSTAIN | ABSENT |
| SHIROMA                | x       |    |         |        |
| PATTERSON              |         |    |         | x      |
| DAVIS                  | x       |    |         |        |
| POSNER                 | x       |    |         |        |
| KEAT                   | x       |    |         |        |
| CARR                   | x       |    |         |        |
| SLATON                 | x       |    |         |        |

**EXHIBIT A**

**FORMAL NOTICE OF ELECTION**

1. **NOTICE IS HEREBY GIVEN** to the qualified electors of the Sacramento Municipal Utility District, of Sacramento and Placer Counties, California (the "District"), that in accordance with the provisions of the Elections Code of the State of California, an election will be held on Tuesday, November 7, 2006 in the District.

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2. At the election, the following measure will be submitted to the qualified electors of the District and voted upon:

**MEASURE L:** "Shall the ordinance of the Sacramento Municipal Utility District (SMUD) establishing the conditions under which SMUD shall provide electric service to the Cities of West Sacramento, Davis, and Woodland and portions of Yolo County by annexation be adopted?"

The measure shall be designated on the ballot by a letter printed on the left margin of the square containing the description of the measure as provided in Section 13116 of the Elections Code of the State of California. The voter information materials shall include the full text of the proposed ordinance, as set forth in Exhibit B.

3. If a majority of qualified electors voting on the initiative measure vote "YES," the initiative measure is approved.

4. The polls at the polling places will be open from 7:00 a.m. until 8:00 p.m. on the day of the election. The boundaries of the voting precincts within the District, the location of the polling places, and the names of the officers selected to conduct the election shall be determined by the Registrar of Voters of Sacramento and Placer Counties.

7. The Board of Directors of the Sacramento Municipal Utility District, by adoption of Resolution No. 06-06-06 (the "Resolution"), on June 15, 2006, has ordered the election, and the District's General Counsel, by execution of this Formal Notice of Election, has called the election ordered by the Resolution in accordance with the provisions of Section 11950 of the Public Utilities Code and Sections 1405 and 9342 of the Elections Code. In all particulars not recited in this Notice, the election shall be held and conducted as provided by law for holding district elections.

Dated: July 31, 2006.

Arlen Orchard, General Counsel  
Sacramento Municipal Utility District

**EXHIBIT B**

**AN ORDINANCE OF THE SACRAMENTO  
MUNICIPAL UTILITY DISTRICT  
Provision of Electric Service to and Annexation of  
the Cities of West Sacramento, Davis and Woodland  
and Contiguous Unincorporated Portions of  
Yolo County**

**Section 1: Purpose.** The purpose of this ordinance is to establish the conditions under which the Sacramento Municipal Utility District (SMUD) shall provide electric service to and annexation of the Cities of West Sacramento, Davis and Woodland and contiguous unincorporated portions of Yolo County (Yolo Territory). SMUD shall not proceed with the provision of electric service to and annexation of the Yolo Territory, unless this ordinance is approved by a majority of the voters in SMUD's existing service territory voting at the November 7, 2006 election.

**Section 2: Findings.**

- a. Currently, SMUD's electric service rates are approximately 29% below Pacific Gas and Electric Company's (PG&E) rates. SMUD's rates are expected to remain significantly below PG&E's for the foreseeable future.
- b. According to publicly reported electric service reliability indices, SMUD provides a higher level of electric service reliability than PG&E.
- c. Citing lower rates and better reliability, the City Councils of the Cities of West Sacramento, Davis and Woodland, and the Board of Supervisors of Yolo County unanimously voted to request that SMUD replace PG&E as the electric service provider for the Yolo Territory.
- d. The Sacramento Local Agency Formation Commission (LAFCo) is the independent local agency charged with reviewing and approving the proposal to provide electric service to and annexation of the Yolo Territory. LAFCo retained an independent expert to review the SMUD proposal. The independent expert reviewed documentation provided by SMUD and PG&E and made the following findings:
  - (i) Annexation should result in up to \$380 million of economic benefits for SMUD's existing customers and the new Yolo Territory customers over the first 20 years.
  - (ii) As part of the annexation, SMUD will acquire at fair market value certain PG&E owned electric infrastructure facilities in the Yolo Territory. The fair market value of the PG&E facilities is estimated at \$110 million and is within the range estimated by SMUD (\$86 million to \$133 million). PG&E's fair market value claim of \$517 million was not supported by the information provided by PG&E.

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- e. Positive economic benefits for SMUD's existing customers and new customers in the Yolo Territory are expected to continue beyond the 20-year study period considered by LAFCo and SMUD.
- f. The LAFCo Executive Officer's Report concluded that annexation of the Yolo Territory will likely create positive economic benefits for SMUD's existing customers and the new Yolo Territory customers. The Report also found that SMUD can provide reliable and cost-effective service to the Yolo Territory without negatively impacting SMUD's existing customers.
- g. LAFCo and the SMUD Board of Directors have adopted requirements to ensure that the Yolo Customers shall pay the costs of annexation of and electric service to the Yolo Territory and SMUD's existing customers shall be held harmless. These requirements are included in Section 3 of this ordinance.
- h. Any net income from the Yolo Territory shall be used to maintain low rates through debt reduction and to invest in energy efficiency and clean energy resources for use in the Sacramento region. This requirement is included in Section 3 of this ordinance.

**Section 3: Conditions.**

- a. **Existing SMUD Customers Held Harmless.**  
Existing SMUD customers shall be held harmless as a result of the annexation of the Yolo Territory into SMUD's existing service territory. This condition shall be implemented as follows:
  - (i) Annexation and provision of electric service to the Yolo Territory shall not adversely affect the quality or level of service and reliability to existing SMUD customers. During the Surcharge Period, SMUD shall continue to monitor indices of customer satisfaction and reliability and publicly report these findings on an annual basis.
  - (ii) SMUD customers in the Yolo Territory (Yolo Customers) shall pay, through their rates and a surcharge, an amount sufficient to recover the costs of annexation and electric service, including costs associated with the acquisition of the PG&E facilities, increased power supply costs and non-bypassable charges assessed to departing load by the California Public Utilities Commission or

California law. The recovery of annexation costs shall be consistent with the following principles:

- (a) SMUD shall recover the first \$90 million of acquisition costs of PG&E's facilities over the long-term through SMUD rates charged to the Yolo Customers. This amount constitutes the Base Amount.
- (b) Acquisition costs in excess of the Base Amount shall be included in the Surcharge Amount. Payment of this portion of the Surcharge Amount shall represent the Yolo Customers' equity contribution to the SMUD system.
- (c) SMUD shall acquire energy resources to serve the Yolo Customers and, to the extent reasonable and prudent, shall fix the cost of all or a portion of the energy resources as necessary to protect the level of economic benefits available to SMUD customers. In fixing the cost of the energy resources, if the forward price of natural gas is more than \$1 per MMBtu above the natural gas price assumed in the April 2005 SMUD Staff Assessment and Recommendation (SMUD Staff Assessment), the Surcharge Amount shall be increased to include the impact of natural gas prices (in excess of the assumed price plus \$1 per MMBtu) on the estimated economic benefits of the annexation.
- (d) The Surcharge Amount shall be collected from the Yolo Customers during the Surcharge Period. The Surcharge Period shall continue until the Surcharge Amount is fully paid. While the term of the Surcharge Period is not fixed, it is expected to last between 5 and 10 years (based upon the assumptions in the SMUD Staff Assessment).
- (e) During the Surcharge Period, the Surcharge Amount shall be reduced each year by the revenue collected from the Yolo Customers, which is in excess of the sum of the revenues that would have been generated by SMUD tariffs plus any non-bypassable charges owed to PG&E or any other charges required to be collected by the State of California.

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- (f) "Surcharge Amount" means the sum of the acquisition costs in excess of the Base Amount (described in Section 3.a.(ii)(b)) and the energy supply costs in excess of the price (plus \$1 per MMBtu) assumed in the SMUD Staff Assessment (described in Section 3.a.(ii)(c)) and payable by the Yolo Customers.
- (g) "Surcharge Period" means the length of time commencing when SMUD begins electric service to the Yolo Territory and continuing until the Surcharge Amount is fully paid by the Yolo Customers.
- b. **Setting Electric Service Rates for the Yolo Territory.**
- (i) Prior to commencing electric service in the Yolo Territory, the SMUD Board of Directors shall establish the rates and charges for electric service in the Yolo Territory in accordance with Public Utilities Code Section 14401-14403.5 and SMUD Ordinance 91-1. During the Surcharge Period, the initial tariff rates for the Yolo Customers shall be 2 percent or more below the then effective PG&E tariff rates and shall recover the costs of providing electric service to the Yolo Customers, the Surcharge Amount (over the Surcharge Period), non-bypassable charges (to the extent collected by SMUD) and any other charges required to be collected by the State of California.
- (ii) At the end of the Surcharge Period, the Yolo Customers shall be placed on the then-applicable SMUD tariff rates for similarly situated customers. In addition to the SMUD tariff rates, the Yolo Customers shall continue to pay any ongoing non-bypassable charges owed to PG&E or required to be collected by the State of California.
- c. **Accounting for Annexation Costs.** During the Surcharge Period, SMUD shall separately track and account for the following annexation and electric service costs for the Yolo Territory: (i) the acquisition costs for the PG&E facilities; (ii) power supply costs; and (iii) other variable operations and maintenance costs incurred to annex and provide electric service to the Yolo Territory. During the Surcharge Period, SMUD

shall also separately track and account for electric service revenues from the Yolo Territory. The accounting of the Yolo Territory costs and revenues shall be reviewed annually by SMUD's outside independent auditor and shall be reported at a publicly noticed meeting of the SMUD Board of Directors.

- d. **Certification of Collection of the Surcharge Amount from the Yolo Customers.** When the Surcharge Amount has been recovered from the Yolo Customers and verified by SMUD's outside independent auditor, the SMUD Board of Directors, at a publicly noticed meeting, shall certify that the Surcharge Amount has been fully recovered, shall end the Surcharge Period and shall set the rates for the Yolo Customers in accordance with Section 3.b.(ii).
- e. **Beneficial Use of Net Income from the Yolo Territory.** SMUD shall use any net income from the Yolo Territory to maintain low rates through debt reduction and invest in energy efficiency and clean energy resources for use in the Sacramento region.
- (i) "Net Income" means electric service tariff revenues collected from the Yolo Customers less the following: (i) debt service on debt for acquisition of PG&E's electric infrastructure facilities; (ii) the Yolo Customers' allocated share of debt service for future SMUD debt issuances; (iii) power supply costs and other variable operations and maintenance costs incurred to annex and provide electric service to the Yolo Territory; (iv) non-bypassable charges (to the extent collected by SMUD); (v) any other charges required to be collected by the State of California; and (vi) additional amounts collected as part of the electric service tariff and used to pay down the Surcharge Amount.
- (ii) "Maintain low rates" means the use of net income (as defined in Section 3.e(i)) to reduce existing debt or reduce new debt required to fund capital improvement projects. Reduction of existing or new debt will reduce the amount required to be collected through customer rates for debt service.
- (iii) "Invest in energy efficiency and clean energy resources for use in the Sacramento region" means the investment of net income (as defined in Section 3.e.(i)) in: (a) commercial or emerging renewable energy

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technologies or projects that will supply electricity for SMUD customers and reduce the emission of air pollutants and green house gases; and (b) cost-effective energy efficiency measures that will reduce SMUD's reliance on fossil fuel generation.

- f. **SMUD Board of Directors' Authority.** Except as otherwise expressly provided in this ordinance, the SMUD Board shall determine the terms and conditions of service for the Yolo Territory in accordance with the Municipal Utility District Act (Public Utilities Code, Sections 11501-14403.5), other applicable laws, and the conditions imposed by LAFCo.
- g. **Voter Approval.** SMUD shall not provide electric service to the Yolo Territory unless this ordinance is approved by a majority of voters in SMUD's existing territory voting at the November 7, 2006 election and the LAFCo ordered ballot measures pursuant to Government Code Section 56129 and 57075 are approved by a majority of voters in the Yolo Territory voting at the November 7, 2006 election.

**Section 4. Compliance with Sacramento LAFCo Conditions.** In providing electric service to and annexation of the Yolo Territory, SMUD shall comply with the conditions set forth in LAFCo Resolution Nos. LAFC 1313 and LAFC 1314.

**Section 5: Interpretation.** This ordinance shall be liberally construed to effectuate its purposes.

**Section 6: Severability.** If any provision of this ordinance or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**Section 7: Enforcement.** Any person residing within the Sacramento Municipal Utility District may sue for injunctive relief to compel compliance with the provisions of this ordinance.

**Section 8: Limitation on Amendment.** This ordinance may be amended or repealed in accordance with the procedures set forth in this section.

- a. **Amendment by Vote of the Electorate.** This ordinance may be amended or repealed by an ordinance placed on the ballot by initiative petition, or by majority vote of the members of the SMUD Board, that becomes effective only when approved by the voters in SMUD's service territory.
- b. **Amendment by SMUD Board of Directors.** Upon certification of recovery of the Surcharge Amount and the end of the Surcharge Period, as described in Section 3.d., the SMUD Board of Directors may amend this ordinance pursuant to the procedures set forth in Article 5 (commencing with Section 11907), Chapter 3, Division 6, Part 4 of the Public Utilities Code. Except as expressly set forth herein, the SMUD Board of Directors shall not have the authority to amend this ordinance.